

Decision 03-05-064 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Robert Hambly, et al.

Complainant,

vs.

Hillsboro Properties and City of Novato,

Defendants.

Case 00-01-017
(Filed January 14, 2000)

**OPINION DISMISSING, WITHOUT PREJUDICE,
REQUEST FOR INTERVENOR COMPENSATION**

Summary

We dismiss, without prejudice, the request for intervenor compensation filed by the former counsel for Golden State Mobilehome Owners League (GSMOL), the entity which has represented complainant Robert Hambly, et al (Hambly) in this complaint case. The pleading, itself, asks that we not act until the underlying substantive matter has been fully resolved. Dismissal without prejudice fully preserves GSMOL's rights. It also promotes administrative efficiency by ensuring that the Commission's administrative and decisionmaking resources are devoted to matters that are ripe for determination.

Background

GSMOL, through its prior attorney, filed a request for intervenor compensation on March 8, 2002. On March 28, 2002, Hillsboro Properties

(Hillsboro), the owner of the Los Robles Mobilehome Park (Los Robles), jointly filed a response with intervenor Western Manufactured Housing Communities Association (WMA). The response opposes the request for several reasons, including the fact that the attorney no longer represented GSMOL. On April 18, 2002, GSMOL's current counsel filed a pleading entitled "Ratification of Request for Compensation."

Discussion

GSMOL alleges that it substantially contributed to Decision (D.) 01-08-040 but states, "GSMOL requests that this Request be accepted and held until such time as the refunds have been determined, appeals have been exhausted and/or this proceeding is closed." (Request for intervenor compensation at p. 4.) However, since final resolution of this complaint is not imminent, we decline to hold this matter in abeyance any longer. Review of the procedural status of this complaint case shows that the request for intervenor compensation is premature, and accordingly, we dismiss it without prejudice to future refilling.

In D.01-08-040, the Commission concurred with Hambly's claims that Hillsboro had assessed the Los Robles tenants annual rent increases which, though approved by the local rent control authority, result in higher charges for submetered natural gas and electric service than Pub. Util. Code § 739.5 permits. D.01-08-040 ordered Hillsboro to calculate, in accordance with the methodology set out in the decision, the refunds owed to Hambly and the other Los Robles tenants. Subsequent events, including an application for rehearing of D.01-08-040 and an appeal of D.01-08-040 to the Court of Appeal, delayed any final calculation of the refunds. Moreover, while the appeal was pending, the Commission issued Rulemaking (R.) 03-03-017 and Investigation (I.) 03-03-018 to

review the underlying policy issues implicated in the Hambly complaint. The Commission consolidated the complaint case with the new Rulemaking/Investigation and stayed D.01-08-040. In its recent decision upholding D.01-08-040, the Court of Appeal notes that the new Rulemaking/Investigation will permit broad review of submeter issues.

Dismissal without prejudice fully preserves GSMOL's rights. It also promotes administrative efficiency by ensuring that the Commission's administrative and decisionmaking resources are devoted to matters that are ripe for determination.

We remind GSMOL that at such time as it refiles its request for intervenor compensation, it must clearly differentiate between the representation it provided for the Los Robles tenants, who stand to benefit directly by any refund, and its broader representation of its membership.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffery P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Waiver of Comments on the Draft Decision

Pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the usual period for public comment is being waived.

Findings of Fact

1. GSMOL asks the Commission to hold the request for intervenor compensation in abeyance until the resolution of this complaint is final.
2. Since final resolution of this complaint is not imminent, the request for intervenor compensation is premature.

3. Dismissal of this request for intervenor compensation without prejudice will fully preserve GSMOL's rights.

4. Dismissal of this request for intervenor compensation without prejudice will promote administrative efficiency by ensuring that the Commission's administrative and decisionmaking resources are devoted to matters that are ripe for determination.

Conclusions of Law

1. GSMOL's request for intervenor compensation should be dismissed without prejudice to future refiling.

2. To avoid further uncertainty, this decision should be effective immediately.

O R D E R

IT IS ORDERED that the request for intervenor compensation filed on March 8, 2002 by Golden State Mobilehome Owners League is dismissed without prejudice to future refiling.

This order is effective today.

Dated May 22, 2003, at San Francisco, California

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners.

Compensation Decision Summary Information

Compensation Decision(s):	D0305064
Contribution Decision(s):	D0108040
Proceeding(s):	C0001017
Author:	ALJ O'Donnell
Payer(s):	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Reason Change/Disallowance
Golden State Mobilehome Owners League	3/8/02	\$21,444.32	0	Premature

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
none						